

ATTORNEY'S DOCKET NO: M0627/7018 (LMG)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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5-9-02

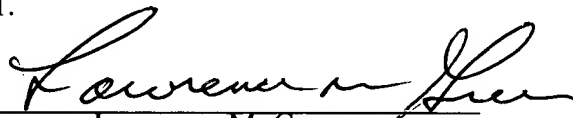
Applicant: Marc F. Hamel, et al.
Serial No: 09/865,404
Filed: May 25, 2001
For: AUTOMATED PIPETTING SYSTEM

Examiner:
Art Unit:

Gordon
3754-1743

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, Washington, D.C. 20231, on the 4th day of December, 2001.


Lawrence M. Green

Commissioner for Patents
Washington, D.C. 20231

STATEMENT PURSUANT TO APPLICANTS' DUTY OF DISCLOSURE
UNDER 37 C.F.R. § 1.56

Sir:

I, Marc F. Hamel, hereby declare as follows:

1. I am a named inventor in the above-identified patent application. I am the Director of Marketing Automation for Matrix Technologies Corp. (Matrix), the Assignee of the above-identified patent application.
2. During the spring of 2000, Matrix arranged for components of an automated pipetting system to be built by Cosmotec Company Ltd. (Cosmotec), a Japanese company, and thereafter shipped to Matrix's facility in this country for assembly. These components included the pipetting head assembly and the plate handling assembly as described in the above-identified patent application.
3. On or about May 18, 2000, and/or May 19, 2000, representatives from Carl Zeiss Jena GmbH of Germany (Zeiss) visited the offices of Matrix in Hudson, New Hampshire, and met with representatives of Matrix, including myself. Zeiss was considering doing business with

Matrix. In particular, Zeiss wanted to learn whether Matrix would be able to make an automated pipettor to Zeiss' specifications for resale under the Zeiss name.

4. During the course of this meeting, the Zeiss representatives were shown a partially assembled prototype of an automated pipetting system. This prototype included the pipetting head assembly disclosed in the above-identified application and the plate handling assembly disclosed in the above-identified application. Both the pipetting head assembly and the plate handling assembly had been built by Cosmotec in Japan and shipped to Matrix. However, this prototype shown to representatives of Zeiss did not include the stacker assemblies disclosed and claimed in the above-identified application. The stacker assemblies disclosed and claimed in the above-identified application were still in the process of being designed and built by Matrix as of May 18, 2000, and the design and building thereof were not completed until after May 25, 2000.

5. The purpose of showing the prototype pipetting system to the representatives of Zeiss was to demonstrate the sort of pipettors that Matrix was capable of making so that the representatives of Zeiss could determine whether Matrix had the capability to make products to Zeiss' specifications.

6. At no time prior to May 25, 2000, was an offer made to Zeiss to sell an automated pipetting system like that described in the above-identified patent application. In particular, Matrix did not make a commercial offer for sale to Zeiss for such a pipetting system which could be accepted by Zeiss. Prior to May 25, 2000, Zeiss did not seek, nor was it given any price quotation or other terms under which such a pipetting system could be sold to Zeiss. The automated pipetting system of this application was not even fully designed and built until after May 25, 2000, and it was not offered for sale to anyone until a much later time.

7. All of the discussions with representatives of Zeiss which occurred on or about May 18, 2000, and/or May 19, 2000, were conducted pursuant to a proprietary information disclosure agreement executed by Matrix and Zeiss and dated May 19, 2000. A copy of this confidential disclosure agreement is attached hereto.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Sept 17, 2001
Date

Marc F. Hamel
Marc F. Hamel

Docket No. M0627/7018 (LMG)

PROPRIETARY INFORMATION DISCLOSURE AGREEMENT

This Agreement is effective the 19th day of May, 2000 between Matrix Technologies Corporation, a Delaware corporation ('Matrix'), Carl Zeiss Jena GmbH ('Company'), for establishment of the conditions under which Proprietary/Confidential information relating of Matrix and Company may be disclosed or exchanged.

Items covered under this agreement include all products, services and accessories related to Matrix's PlateMate Plus Automated Equipment.

THEREFORE, in consideration of the mutual understandings by Matrix, and ('Company') intending to be legally bound hereby, the parties agree that:

- A. Proprietary information may include, but is not limited to, proprietary or confidential data, know-how, inventions, discoveries, ideas, formulae, designs, drawings, compounds, photographs, plans, reports, studies, or business, marketing, sales or financial information, in any form, whether written, oral, or otherwise.
- B. Discloser shall mean, with respect to any Proprietary Information, the party that discloses the Proprietary Information hereunder.
- C. Recipient shall mean, with respect to any Proprietary Information, the party that receives the Proprietary Information hereunder.
- D. Recipient shall not disclose Discloser's Proprietary Information to any third party, except as Discloser may authorize in writing, and Recipient's internal dissemination of such Information shall be limited to those employees or professional advisors whose duties justify their need to know such Information and then only on the basis of a clear understanding by these employees or professional advisors of their obligation to maintain the confidential status of such Information and of the restricted use granted to Recipient under this Agreement, and are bound by a written agreement or by a legally enforceable code of professional responsibility to protect such Information.
- E. The obligations contained in this Agreement shall not apply to information which: 1) is, at the time of disclosure, generally known to the trade or public; 2) becomes at a later date, generally known to the trade or public through no fault of Recipient, and then only after said later date; 3) is possessed by Recipient, as evidenced by written or other tangible evidence, before recipient from Discloser; or 4) is disclosed to Recipient in good faith by a third party who has an independent right to such information without an obligation of confidentiality to Discloser.
- F. The obligation of confidentiality under this Agreement will terminate three (3) years after the effective date of the agreement. After this period, recipient shall be free of any restrictions of disclosure or use of such Proprietary Information, subject to any patent, trademark or other intellectual property rights of Discloser.

- G. No intellectual property rights or licenses are granted, by implication or otherwise, by this Agreement, and the disclosure of Proprietary Information shall not result in any obligation to grant such rights or licenses.
- H. When the Purpose has been achieved, or otherwise at Discloser's request, Recipient will promptly return to Discloser all Proprietary Information, and will destroy all notes, abstracts or other documents of Recipient containing Discloser's Proprietary Information.
- I. Each party acknowledges and agrees that any violation of the terms of this Agreement relating to the disclosure, dissemination or use of any Proprietary Information of the other party may result in irreparable injury and damage to the other party that may not be adequately compensable in money damages, and for which the other party will have not adequate remedy at law. Each party therefore consents and agrees that the other party may obtain injunctions, orders or decrees as may be necessary to protect such confidential information and materials, which rights shall be cumulative and in addition to any other rights or remedies to which the other party may be entitled.
- J. If any provision of this Agreement or the application thereof to any person or circumstances is held invalid or unenforceable in any jurisdiction, the remainder of this Agreement, and the application of such provision to such person or circumstances in any other jurisdiction or to other persons or circumstances in any jurisdiction, shall not be affected thereby, and to this end the provisions of this Agreement shall be severable. If any provision of this Agreement is held by a court or competent jurisdiction to be invalid, void or unenforceable, it is the parties intention that such provision shall be reformed and construed by the court to provide the protected party the maximum protection permissible by law.
- K. This Agreement will be governed by the laws of the Commonwealth of Massachusetts. This Agreement constitutes the complete and exclusive agreement between the parties regarding the covered subject matter and shall not be modified or assigned by operation of law or otherwise, without the express written consent of both parties.

Matrix Technologies Corporation

By: *R. Lawrence Renee*
Title: Senior Vice President Sales

Date: 5-19-00

g:admin/renee/forms/NON DISCLOSURE

Carl Zeiss Jena GmbH

By: *i.v. J. R. G. H.*
Title: Manager R&D

Date: 5-19-00

i.v. Dr. Reinhold



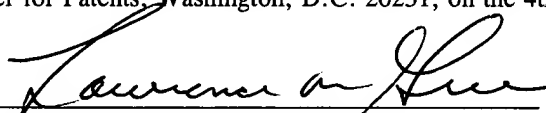
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Applicant: Marc F. Hamel et al.
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Filed: May 25, 2001
For: AUTOMATED PIPETTING SYSTEM

Examiner:
Art Unit: 3754

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, Washington, D.C. 20231, on the 4th day of December, 2001.


Lawrence M. Green, Reg. No. 29,384

Commissioner for Patents
Washington, D.C. 20231

STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicants request consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing date of a first Office Action on the merits in the above-identified case.

No fee or certification is required.

PART II: - Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application:

Statement Pursuant to Applicant's Duty of Disclosure Under 37 C.F.R. § 1.56, executed by Marc F. Hamel on September 17, 2001.

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following is a concise explanation of the relevance of each non-English language reference listed on the attached form PTO-1449 (modified):

N/A

The following are remarks concerning the other information cited:

NONE.

PART IV: Remarks

A copy of each of the above-identified information is enclosed unless otherwise indicated on the attached form PTO-1449 (modified). It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicants make no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

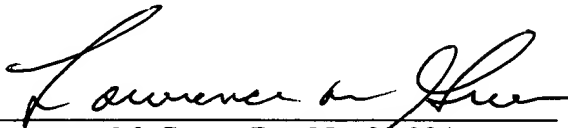
By submitting this Information Disclosure Statement, the Applicants make no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicants make no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicants, the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,
Marc F. Hamel et al., Applicant(s)

By: 
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Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210
Telephone (617) 720-3500

Docket No. M0627/7018 (LMG)

Dated: December 4, 2001

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